

JAN 05 2010

Application No. 10/538,698  
Amendment Dated: January 4, 2010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

**Matt O'Malley**

Application No.: 10/538,698

Filed: July 10, 2005

**For: CONTENT CREATION,  
DISTRIBUTION, INTERACTION,  
AND MONITORING SYSTEM**

Art Unit: 3627

Examiner: SHAAWAT,  
MUSSA A

DECLARATION OF PRIOR INVENTION UNDER 37 § C.F.R. 131

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir,

1. I, INVENTOR, am an inventor on the patent application entitled CONTENT CREATION, DISTRIBUTION, INTERACTION, AND MONITORING SYSTEM, which was filed on July 10, 2005 and provided an application number 10/538,698 by the United States Patent and Trademark Office. The application claims priority to United States Provisional Application No. 60/432,808, which has a filing date of December 10, 2002. I am the inventor of the subject matter in the above-identified patent applications.

2. I make this declaration to establish conception of the invention claimed in the above-identified application in the United States at a date at least as early as February 9, 2000, which is believed to be the filing date of United States Patent Application No. 6,587,835, and at least one reduction to practice date, herein the filing date of the United States Provisional Application No. 60/432,808, as a constructive reduction to practice date. This period is coupled with due diligence from a date at least as early as February 9, 2000 to December 10, 2002, the filing date of United States Provisional Application No. 60/432,808.

3. As evidence that I conceived of the claimed invention at least as early as February 9, 2000 and subsequently constructively reduced to practice the invention by filing the United States Provisional Application No. 60/432,808 after appropriate due diligence, the following attached exhibits, complying with the requirements of 37 C.F.R. § 1.91, are submitted as evidence:

A. *Exhibit A* contains a copy of a business plan incorporating the subject matter as claimed, and is relied on as conception at least as early as the effective date of the United States Patent Application No. 6,587,835. Conception is capable of proof by such a plan. *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). The plan includes every feature or limitation of the claimed invention. *Slip Track Systems, Inc. v. Metal-Lite*, 304 F.3d 1256 (Fed. Cir. 2002).

(i). Specifically, with respect to Claim 1,

a system for providing information, the system including computer executable modules on a computer readable medium useful in association with a computer which includes a processor and a memory, the computer readable medium including computer instructions which are configured to cause the computer to provide information to a user comprising. See Exhibit A, Page 3; ¶5, Page 4; ¶1;

a first database; means for generating a first predetermined content for storage in said first database. See Exhibit A, Page 4; ¶ 3 - 4, Page 5; ¶5 - 6, Page 7; ¶ 2 - 4;

a second database; means for generating a second predetermined content for storage in said second database (See Exhibit A, Page 1 (including local content in the environment); ¶ 4; See Also Page 1; ¶4, Page 2; ¶ 5-6, Page 3; ¶1, 3 - 6, Page 4; ¶2 - 3, 6, 7, Page 5; ¶1, 3, 5, Page 6 ¶1 - 4, Page 7; ¶1, 3 - 5, Page 8; ¶3 - 4, 6 - 8;

server means; means for interconnecting said first and second databases to said server means; See Exhibit A, Page 4; ¶3, Page 7; ¶2;

a plurality of transceivers; means providing access by each of said transceivers to said server means; and selector means on each said transceiver for selectively accessing said first and second content. See Exhibit Page 2; ¶5, Page 4; ¶6, Page 5; ¶2.

B. *Exhibit B* contains a Screen Shot of the general characteristics of *Exhibit A* illustrating a creation date of January 19, 2000, prior to the effective date of United States Patent Application No. 6,587,835.

C. *Exhibit C* contains evidence of continued due diligence from at least as early as the provided conception date to at least one reduction to practice date, herein the filing date of the United States Provisional Application No. 60/432,808, as a constructive reduction to practice date. Furthermore, actual dates are provided according to MPEP § 715.07(a) and the assertions herein are supported by a showing of facts and thus satisfies the requirements of 37 CFR 1.131(b). *In re Borkowski*, 505 F.2d 713, 184 USPQ 29 (CCPA 1974).


The evidence of the continued diligence in reducing the invention to practice is illustrated in:

- i. Establishing a working model;
- ii. Attempting to partner and/or contract with others who can assist in implementing the invention;
- iii. Finding appropriate technology consultants for the various technologies present in Applicant's invention as claimed;
- iv. Vetting appropriate patent attorneys/agents for those who understand the specific technology involved; and
- v. Investigation into funding to test the invention.

4. To the extent *Exhibit C* contains evidence of continued due diligence from at least as early as the provided conception date to at least one reduction to practice date, herein the filing date of the United States Provisional Application No. 60/432,808, as a constructive reduction to practice date. Applicant declares that such due diligence must be resolved in light of Applicant's long and compacted work history and commitments to the health and support of his family.

5. *Exhibit D* is comprised of a grid listing every email/document in *Exhibit C*, wherein Applicant attempts to explain the relevance of the diligence cited.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by a fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon. 35 U.S.C. § 25(b); 37 C.F.R. § 1.68

  
Matt O'Malley

Dated: 1-4-2010